



1133 Avenue of the Americas
Suite 1500
New York, New York 10036

(212) 316-9500
rkaplan@kaplanmartin.com

December 9, 2024

BY CM/ECF

The Honorable Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl St.
New York, N.Y. 10007

Re: Chan v. U.S. Dep't of Transp., No. 23 Civ. 10365 (S.D.N.Y.); *Mulgrew v. U.S. Dep't of Transp.*, No. 24 Civ. 1644 (S.D.N.Y.); *New Yorkers Against Congestion Pricing Tax v. U.S. Dep't of Transp.*, No. 24 Civ. 367 (S.D.N.Y.); *Trucking Ass'n of N.Y. v. Metro. Transp. Auth.*, No. 24 Civ. 4111 (S.D.N.Y.)

Dear Judge Liman:

We write on behalf of Defendants the Metropolitan Transportation Authority (“MTA”) and the Triborough Bridge and Tunnel Authority (“TBTA”) to inform the Court that on December 6, 2024, the United States Court of Appeals for the First Circuit issued an opinion in *American Trucking Associations, Inc. v. Rhode Island Turnpike & Bridge Authority*, __ F.4th __, 2024 WL 5001908 (1st Cir. Dec. 6, 2024) (“Op.”). A copy of the decision is attached here as Exhibit A.

In its opinion, the First Circuit reversed in part the district court’s decision in *American Trucking Associations, Inc. v. Alviti*, 630 F. Supp. 3d 357 (D.R.I. 2022), and addressed several other issues that are currently pending before this Court in connection with the *Chan*, *Mulgrew*, and *TANY* plaintiffs’ right to travel and dormant Commerce Clause claims. *See Op.* at *3 (“excessiveness” prong of *Evansville/Northwest Airlines* test does not apply where tolling program is authorized under the Intermodal Surface Transportation Efficiency Act of 1991); *id.* at *12-14 (tolls imposed on tractor-trailers, based on the state’s reasonable assessment of the damage caused by tractor-trailers, satisfied “fair approximation” prong of *Evansville/Northwest Airlines* test); *id.* at *14-15 (Rhode Island could toll tractor-trailers without tolling smaller vehicles); *see generally* MTA et al.’s Mem. of L. In Supp. of Omnibus Mot. to Dismiss, at 11-18, available at *Mulgrew*, ECF 105; MTA et al.’s Mem. of L. In Further Supp. of Mot. to Dismiss & In Opp. to Mots. for Prelim. Inj., at 8-16, available at *Mulgrew*, ECF 125.

We thank the Court for its consideration and are prepared to address any questions that the Court may have at oral argument on December 20, 2024.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Roberta', with a stylized flourish extending to the right.

Roberta A. Kaplan

cc: Counsel of Record (via ECF)